



CITY OF MORGAN HILL

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JUNE 26, 2001

PRESENT: Acevedo, Benich, Lyle, McMahon, Mueller, Sullivan, Weston

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Bischoff, Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, and Minutes Clerk Johnson.

Chair Sullivan called the meeting to order at 7:15 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Sullivan opened the public hearing.

Richard Robbins 177 Del Monte Ln. addressed the Commissioners regarding a neighboring Church, which operates specific functions under a use permit. Mr. Robbins expressed concern about the apparent acceptance by the Church of skateboarders. In fact, Mr. Robbins said, it appears that there is organized play and activities for the skateboards which causes concern to the neighbors. He indicated that contact with Church leaders had not been successful in problem resolution. Following his presentation, Commissioners asked that the item be agendaized for discussion of the conditions of the use permit.

MINUTES:

JUNE 12, 2001

COMMISSIONERS MUELLER/McMAHON MOTIONED TO APPROVE THE JUNE 12, 2001 MINUTES WITH THE FOLLOWING AMENDMENTS:

Page 4: 3rd paragraph: hearing applications

Pages 4 & 5:(Motion - bottom) ~~WITH THE ZONING AMENDMENT CONTINUING TO BE MOVED FORWARD~~ NOTING THAT THE

ANNEXATION AND REZONE (TO PUD) ARE LINKED AND NOT TO BE CONSIDERED SEPARATELY. THE MOTION PASSED WITH ALL COMMISSIONERS PRESENT VOTING “YES”.

Page 9: last paragraph: (add) With further discussion, Commissioners concluded a workshop regarding the matter would begin at 6:00 p.m. was to be noticed to developers, builders, and residents of the City.

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT/NOT VOTING: NONE

OLD BUSINESS:

**1. HOUSING
TYPE DISTRI-
BUTION & TERM
FOR 2001-02 M.P.
COMPETITION
(FY 2003-04
BUILDING
ALLOTMENT)**

PM Rowe gave the staff report on the workshop. The recommendations of the Subcommittee for the Measure P allocation for the balance of 2002 – 03 were discussed. Categories which have been tentatively agreed upon, by consensus, are:

Micros – for 5 units and less – new projects to be considered in February, 2002

Set-asides : Affordable 20% non profits only – special category

Open market – to be considered in October, 2002: open to on-going projects which have been approved for current cycle work

Small projects (6 – 15 units)

Market rate (over 15 units) open only to on-going projects this cycle only

PM Rowe continued that the allocations in this cycle are limited. 55 of the allocations for '02 – '03 have already been awarded; this occurred at the direction of the City Council during past allocation cycles. The allocations under study now are for the '03 – '04.

Mr. Rowe purpose of the workshop was to determine how the allocations will be given; how to calculate the set-asides. It has been suggested, he said, that a Task force be formed for facilitating study of the identified issue(s). Among other things, PM Rowe said, it needs to be asked of the City Attorney whether, when calculating allocations for future cycles, the terms of Measure would strictly prevail or if the binding language regarding the use of Department of Finance figures might be moved around.

PM Rowe said that what needed to be accomplished at the meeting this date was to determine and finalize, the set-asides for the up-coming competition.

Chair Sullivan opened the public hearing.

Bruce Myers, 675 Hartz Ave., #300, Danville, representing Pacific Union Homes and Ceiro Verde homes, said that according to the staff report, his project is not classified as on-going. However, he noted, that in the last competition, he was only one point short of gaining allocations and he hoped to resubmit and achieve the allocation this year. Mr. Myers said that with the scoring as was being amended, preferential treatment was being given to on-going projects. He stated a strong belief that others should be allowed to be compete “fairly”.

Fred Azarm 4990 Speak Ln. #280, San Jose, spoke with the Commissioners saying that he participated last year in the small projects category. He asked for clarification of the 20% set-aside dealing with 10 units or less. PM Rowe responded to his questions with Commissioners urging the speaker - and others present - who had specific questions to speak directly with Planning staff.

Tony Lupina 729 San Cristoval Ct., told Commissioners he is a Realtor with South county Realty. He indicated concerns with eliminating the open competition category this cycle, limiting the allocations to on-going projects. He protested the proposed policy, saying that all applicants in the past knew the risks of Measures P and E. If the process is limited, Mr. Lupina said, it will eliminate the medium price home in Morgan Hill; if a family isn't eligible for BMR or can afford an expensive home, they will be squeezed out of the market. He commented there were only two new projects in the competition last year. If, Mr. Lupina said, new projects had been eliminated then, the best project ever - the highest vote getter in core development would not be underway now.

Commissioner Mueller said it is important for all present to remember that there are only 49 allocations total available to be awarded. He contrasted this number with the backlog of 550 allocations needed to complete the on-going projects.

Mr. Lupina went on to say that the intent of Measure P was not to eliminate or limit competition.

Commissioner Acevedo asked how many units were in the application Mr. Lupina represented. His reply: Originally 40, redesigned to 43 then 32 and finally 28.

Hasn Patel, 290 Oak Grove Ct., stated his belief that in submitting a small project year before last and reworking it last year that he would be able to have a "good chance" with the 12 unit application be planned to submit this year.

Sarwat "Steward" Fahmy, 331 Santa Rosa Dr. Los Gatos, told the commissioners that he was "echoing the others" in that he had been unsuccessful with prior submittals but closing the competition only to on-going projects would be unfair to those who have worked on bettering their competition applications. He indicated that he believed the Planning staff and Commissioners had given him suggestions for increasing his chances for success and he wanted the competition unchanged. Mr. Fahmy stated that closing the competition in the manner suggested would be unfair and he is decidedly opposed to closing the competition.

Janet Dempsey, 530 E Dunne, with her friend Barbara (last name unknown and no address provided) approached the Commissioners, saying that they plan to promote duet housing on 15 acres on Eastern Avenue. They indicated they have been planning this development for several years and feel that the time is right. They spoke of feeling strongly that projects should be judged on merit and not on being uncompleted. Ms. Dempsey also said that the timing of this decision is unfair, in there are only about three months left to submit. She noted that she had spent considerable time and money working on the competition, and knows the risks involved.

Rafi Bamdad, no address given, said he hopes to compete again this year. He thinks that

there should be some bending to allow the “winners” in the small projects category to phase in the building. He said the City will benefit when the small projects are complete.

Dick Oliver, 275 Saratoga Ave, #105, Santa Clara, told Commissioners he supports the staff recommendations to have emphasis on the on-going projects as many of the developments which had received allocations are so far behind. He indicated thinking that the impact on residents of the partially completed projects is detrimental. Mr. Oliver disagreed with a prior speaker by indicating, “The new criteria mandates that at least 10% of the allocations be given to medium priced homes. “ On-going projects, he said, will compete extremely well and the method is fair.

With no others present to address the Commissioners on this issue, the public hearing was closed.

Commissioner Lyle commented that several of the speakers spoke of being only one point away from securing allocations in the past, noting that with the changed criteria, they might gain more points. But he cautioned, with so few allocations available, they projects would have to superior to beat out all the others. As to the indications that the proposed method of allocation would be “unfair”, Commissioner Lyle indicated the new competition practices were designed to be very fair to those who had worked to better the community. He said he feels it is unfair to have spend many dollars if very few have a probability of success, citing the high scores this year and predicting the possibility of even higher scores in the next competition.

Chair Sullivan said that with approximately 50 allocations available and 550 needed, it is becoming harder to secure the allocations by new projects when the City Council has expressed an interest in having on-going projects completed.

Commissioner Mueller clarified for the (three) new Commissioners the figures being used in the current cycle allocations (‘03 - ‘04), including how allocations had been “borrowed” from others years in the past. He further commented that it is difficult for R-2 applications to receive allotments because of the requirements. Commissioner Mueller responded to questions from other Commissioners regarding the potential for successful award in differing scenarios.

Commissioner Benich presented a chart indicating a perceived growth curve, noting that because of the allocations anticipated in the competition(s), it may be necessary to cut off construction in 2004. Speaking of the census per household, Commissioner Benich said that by suggesting the City take a “breather”, the audience needs to understand it is possible to make an “up-front correction” then permit the figures from the Department of Finance to “catch up”.

Commissioners discussed the facts of trying to avoid leaving unfinished projects if a moratorium had to be entered into. Also discussed was the possibility of changing the competition, so that even though there would be a delay in the open competition until next year, it would gain a “breathing space” to permit the Department of Finance numbers to be acquired in a timely fashion. It was noted that by attempting to change the “lag time”, it would be necessary to change Paragraph D in the proposed resolution under consideration. By consensus, the Commissioners agreed to direct staff to present such a

change.

Commissioner McMahon stated a preference to limit the upcoming cycle to on-going projects only.

Chair Sullivan solicited an informal vote regarding follow-ons in future years. By consensus, the Commissioners agreed that no follow-ons would be permitted in upcoming years. Commissioner Acevedo's dissension was noted.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 01-49 WHICH CONTAINED "ALTERED" NUMBERS IN EXHIBIT A, AND ADDING A SECTION WHICH INDICATES THE PLANNING COMMISSION IS TAKING AN ACTION OF LIMITING FOR ONE YEAR THE MEASURE P ALLOCATION PROCESS TO ON-GOING PROJECTS. THIS WAS SECONDED BY COMMISSIONER LYLE AND ADOPTED BY THE FOLLOWING VOTE: AYES: BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, AND WESTON; NOES: ACEVEDO; ABSENT: NONE; ABSTAIN: NONE.

Commissioners also by consensus action, decided to recommend to the City Council that a Task Force be appointed to study the Measure P issues of follow-ons as relates to the housing elements. Furthermore, the City Attorney will be asked to study the language of Measure P as there is an apparent need to alter the formula as well as have related issues following the completion of the housing element addressed.

By consensus, item two was moved to the end of the agenda

Commissioner Weston left the dias at this time.

**3. UP-01-02:
KEYSTONE-
MARTIN**

A request for approval of a conditional use permit to establish a mixed commercial (office) and residential use on a parcel at 20 Keystone Ave. in the CC-R, Central Commercial- Residential district. The project is the replacement of an existing single family dwelling with a two-story, 5,256 sq. ft., mixed office/residential structure.

PM Rowe presented the staff report, noting the matter had been before the Commissioner twice previously. Unresolved issues of concern at the past meetings had numbers of employees and the amounts of parking. PM Rowe suggested that if the numbers of employees proposed included the owners and managers, it might be more acceptable to the Commissioners. He further stated that the parking standards proposed meet the minimum code requirements, noting that it would be difficult to monitor the parking at the site. However, PM Rowe said, all use permits are to be reviewed annually and the Commissioners can call up a use permit at any time for examination.

Chair Sullivan opened the public hearing.

Lesley Miles, 540 W. Dunne, who identified herself as the architect for the project, said that in driving by the project this evening, she noted that no other buildings in the immediate area attempted to meet the parking standards; this building does, she said. Ms. Miles also said that the limiting of employees appears to be based only on Commissioners concerns, not on code issues. Furthermore, she said there is a need to follow the parking

codes and this design is intended to do so.

Carl Reinhardt, 3480 Oakwood Ct., said he is one of the owners of the Financial Advisory Services to be located in the building. He noted the project had begun in January, the codes were being followed, and the project would improve the ambiance of the area. He and his four employees, he said, are all residents of the City but working in San Jose and they want to “come home”.

With no other persons present to address the issue, the public hearing was closed.

Commissioner Mueller suggested addressing the issue of paring within a set time following commencement of operations. In that way, he said, it would send a message to the owners that if there was a need to “clamp down”, it could be expected.

COMMISSIONERS MUELLER/McMAHON OFFERED RESOLUTION NO. 01-51, WITH THE DELETION OF ITEM 17 FROM THE STANDARD AGREEMENT AND ADDING A PROVISION OF A USE PERMIT REVIEW BY THE PLANNING COMMISSION FOLLOWING ONE YEAR OF OPERATIONS TO ENSURE THE NEEDS OF OFF-SITE PARKING ARE BEING MET AND FURTHER THAT THE ISSUE OF ~~ITEM F~~ STANDARD CONDITION L7(the firewall) BE CLARIFIED. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.

Commissioner Weston returned to the dias.

**4. APPEAL OF
COMMISSION
DENIAL OF AN
EOT FOR
VAR-99-03:
MONTEREY-
VISION OF
WRIGHT (OAK
GLEN PLAZA)**

A request for a one-year extension of time on the approval of a variance from the minimum required rear yard setback for a proposed building addition to the existing Oak Glen Plaza commercial center. Applicant presenting a revised site plan that shows a reduced building area and increased setback from Wright Ave. which was not available to the Commission when the extension of the variance approval was first considered. The Council referred this matter back to the Planning Commission for reconsideration. The project is located at the southwest corner of Wright Avenue and Monterey Road in the CG, General Commercial district.

PM Rowe gave the staff report, telling Commissioners that revised drawings of the project had been received in the planning department. In question, PM Rowe said, is the ownership of the alley which had caused concern in the past. Of continuing concern is the amount of parking following construction of the proposed building. Further concerns voiced by Commissioners were the location of the building, the height of the extension, and the location of trash receptacles.

Chair Sullivan opened the public hearing.

Raj Khanna, 19130 Legand Ct., said he is the owner of the project and offered background on the progression of the development. He indicated that originally, at his purchase, there were three structures on the property and two had been demolished in an effort for beautification of the site. When he builds the new structure, he said, he wants to address all the concerns raised by the Commissioners. He insisted the final product will be uniform for the area.

Commissioners asked questions of the applicant regarding the placement of the building, the parking spaces and related issues. The applicant responded and asked that his engineer be allowed to speak to the issues as well.

T.K. Shingh, 305 Hazelton Ct., engineer for the project, discussed the (revised) application with the Commissioners, telling them it is still the same plan and will serve the City well. Commissioners presented questions to Mr. Shingh about the parking, which he said will be according to code; he assured Commissioners he will work with the Planning department personnel to meet the codes for the building and the site.

With no others wishing to address the issue, the public hearing was closed.

The amounts of square footage, the need for matching the height of the existing building with the new addition, the continuing concerns regarding the parking issues, and the need for landscaping were discussed by the Commissioners. It was agreed, by consensus, that staff should bring back a resolution regarding the matter to the next meeting on July 10, 2001.

**5. UPA-98-07:
MONTEREY-
IRISH
CONSTRUCTION**

A request for approval to amend an existing conditional use permit to demolish an existing 2,000-sf office use within an 18,390-sf construction office and staging yard, and replace with a 3,976-sf office space. The subject site is located at the southeast corner of Monterey Road and Burnett Avenue.

PM Rowe announced a request to continue this item to the July 10 meeting.

Chair Sullivan opened the public hearing.

With no persons present to address the issue, the public hearing was continued.

COMMISSIONERS MUELLER/McMAHON MOTIONED TO CONTINUE THE ITEM TO THE JULY 10, 2001 MEETING OF THE MORGAN HILL PLANNING COMMISSION. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.

**6. ZA-00-21/
SD-00-19\DA-00-13:
NINA LANE-SHAW** Lane, north of Barrett Ave. and south of San Pedro Ave. in the R1-7000 RPD District.

A request for approval of a tentative map, zoning amendment and development

agreement for a 5-lot subdivision on a 2.5-acre parcel located on the west side of Nina Lane, north of Barrett Ave. and south of San Pedro Ave. in the R1-7000 RPD District.

PM Rowe announced a request to continue this item to the July 10 meeting.

Chair Sullivan opened the public hearing.

With no persons present to address the issue, the public hearing was continued.

COMMISSIONERS McMAHON/BENICH MOTIONED TO CONTINUE THE ITEM TO THE JULY 10, 2001 MEETING OF THE PLANNING COMMISSION. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.

7. UPA-99-11: A request for approval of an amendment to the conditional use permit to allow for the
LLAGAS-SHADOW operation of a Jr. K-8th grade (60 students) private school at the existing facility located
MT. BAPTIST on the south east corner of the intersection of Llagas Rd. and Hale Ave. in the R-1 7,000
CHURCH zoning district.

PM Rowe announced a request to continue this item to the July 24 meeting.

Chair Sullivan opened the public hearing.

Jeff Maddix, 250 Berkshire Dr., said he has concerns regarding the potential for increased traffic. He urged Commissioners to wait and see the effect on traffic of the recently opened private school in the immediate area.

Commissioners agreed that there is a need to ascertain the numbers of traffic - and students - generated by the proposal before them. The Commissioners directed staff to bring the results of the authorized traffic analysis to them for study.

Cheryl Lawrence, 250 Berkshire, echoed the concerns of the previous speaker in urging the Commissioners to proceed with caution to ensure the best for the City's residents.

With no other persons present to address the issue, the public hearing was continued.

COMMISSIONERS MUELLER/McMAHON MOTIONED TO CONTINUE THE ITEM TO THE JULY 24, 2001 MEETING. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.

2. GPA-98-02/ This proposal involves a comprehensive update of the City's general plan. The Update
ZA-01-06: CITY involves reorganization and revisions to all but the Housing element of the existing
OF MH-GENERAL General Plan. The update also includes a series of General Plan land use designation
PLAN UPDATE & changes and rezonings. A draft Master Environmental Impact Report (EIR) has been
REZONINGS prepared to evaluate the potential environmental consequences of the proposed Update
to the City's General Plan and associated rezonings.

CDD Bischoff presented the staff report, saying that the Commissioners and Council Members had indicated specific policy changes which needed to be addressed in preparation for the adoption of the City's new General Plan.

Commissioners engaged in considerable discussion of the glossary presented. CDD Bischoff said the language on page 2 of his report "Parklands" was consistent with the findings and recommendations of the Parks Advisory Committee. Commissioners expressed great concern regarding the matter, particularly in the matter of park lands relating to the population as well as the language, ultimately agreeing only on the term "parkland" but declaring the inclusion of buildings and facilities is misleading.

On page 3, item 7b: a need to clarify that the 70% referred to is single family detached housing.

Other items addressed for clarification were:

7q a question whether policy needed to be amended to R-1 7,000 zoning district
7a The need to provide accuracy in the differing figures
9h is an addition at the request of the City Council
11c - changes at the request of the City Council, with that body objecting to the location of the Industrial designation
11.4 changes at the request of the City Council, with that body objecting to the location of the Industrial designation
12.f provide emphasis on greening/plant usage
17.9 has been added as a recommended for increased acreage
Page 7, the Circulation element has been amended at the request of the Mayor who believes the City will be made better with traffic calming patterns
Pages 9 and 10 now contain energy provisions not previously seen by the Planning Commission, but which give emphasis to the need for energy conservation and usage of renewable resources

Commissioners discussed with CDD Bischoff other various items in the document which he clarified. Further discussion centered around the changes in traffic patterns and the proposed arterials which had been proposed then subsequently discussed at both the Commission and Council meetings. Target areas of discussion were Murphy, Condit, and Diana. Also discussed was the Acton property with information being relayed to the Commissioners that the proposal of removal from open space designation of the five acres as requested would be in violation of Measure P. However, it has been ascertained that approximately 1 ½ acres could be rezoned to residential estates; Commissioners agreed this would be proper.

Chair Sullivan opened the public hearing.

Rocke Garcia, 100 E 3rd, appeared to clarify the action of the City Council whereby his project in the northeast section of the City has been reconfigured to have a portion of the project formerly single family medium (SFM) density designated single family low (SFL) with a single row of SFL along Hale. Mr. Garcia provided visuals to explain the changes to the Commissioners who agreed that the area next to the wetlands would be properly designated R-1 with a minimum lot size of 9000 square feet.

With no others present to address the matter, the public hearing was closed.

BY CONSENSUS, THE COMMISSIONERS AGREED TO CHANGING THE PORTION OF THE ACTION PROPERTY AS INDICATED DURING DISCUSSION, THE GARCIA PROPERTY AS PREVIOUSLY DISCUSSED BY THE CITY COUNCIL AND PLANNING COMMISSION AND THE POLICY LANGUAGE CHANGES DENOTED, AS WELL AS THE ACTON ITEM CHANGES/CLARIFICATION.

COMMISSIONERS MUELLER/McMAHON OFFERED RESOLUTION NO. 01-37 WITH THE MODIFICATIONS AS NOTED DURING DISCUSSION. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, McMAHON, MUELLER, SULLIVAN, AND WESTON; NOES: NONE; ABSENT: NONE.

COMMISSIONERS MUELLER/McMAHON OFFERED RESOLUTION NO. 01-38 WITH THE MODIFICATIONS AS NOTED DURING DISCUSSION. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, AND WESTON; NOES: NONE; ABSENT: NONE.

ADJOURNMENT: There being no further business, Chair Sullivan adjourned the meeting at 11:02 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON
Minutes Clerk